

*The Wisconsin Department of Transportation
Division of Transportation Systems Development
Bureau of Equity & Environmental Services
Civil Rights & Compliance Section*



Michele Carter, Program Manager

Annual DBE Goals – FFY 2009

For

*U.S. Department of Transportation
Federal Highway Administration*

Submitted in accordance with 49 CFR Part 26

August 1, 2008

EXECUTIVE NUMERIC SUMMARY
Goals Established In This Submission

	Estimated Fed'l \$	GOAL %	GOAL In \$\$		
FHWA OVERALL GOAL	\$575.35	11.68%	\$67.22	%	\$
		<i>DBE Conscious</i>		8.72%	\$50.15
		<i>DBE Neutral</i>		2.97%	\$17.07
Highway Construction Contracts	\$500.00	11.10%	\$55.50		
		<i>DBE Conscious</i>		9.60%	\$48.00
		<i>DBE Neutral</i>		1.50%	\$7.50
Consultant Contracts	\$66.38	15.90%	\$10.55		
		<i>DBE Conscious</i>		2.30%	\$1.53
		<i>DBE Neutral</i>		13.60 %	\$9.03
CMAQ, Enhancement Projects	\$8.97	13.00%	\$1.17		
		<i>DBE Conscious</i>		7.00%	\$0.63
		<i>DBE Neutral</i>		6.00%	\$0.54

A. Introduction

The Wisconsin Department of Transportation (WisDOT) has established and operates a Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." WisDOT annually sets goals for DBE participation in highway projects funded with federal-aid highway funds, federal transit funds and federal aviation funds. This document is our FFY 2009 goal submission to the Federal Highway Administration (FHWA) as they relate to federal-aid highway funds. The process used to establish the FFY 2009 goals is set forth in this document along with a discussion on how the goals will be monitored. A separate submission of FFY 2009 DBE goals has been made to the Federal Transit Administration (FTA) and the Federal Aviation Administration (FAA) for their related programs.

B. Amount of Goal

Section 26.45: Overall Goal

- 1) 11.68% is the overall DBE goal percentage set for WisDOT's federal-aid highway funds for FFY 2009.
 - a. This 11.68% is the percentage of all highway funds WisDOT anticipates expending in FHWA-assisted contracts this federal fiscal year.
- 2) This means that WisDOT has set a goal to expend \$67,220,000 with DBE firms during Federal Fiscal Year 2009.
 - a. \$575,350,000 is the estimated dollar amount of federal aid highway funded contracts that WisDOT expects to award during FFY2009.
 - b. The DBE goal of 11.68% is a percentage of this estimated amount totaling \$67,220,000.

C. Methodology used to Calculate Overall Goal

Section 26.45(c): Step 1 Calculation

1. The base figure for the relative availability of DBE's was calculated as follows:

$$\text{Base figure} = 13.10\% \quad \frac{\text{Ready, willing, and able DBEs} - 305}{\text{All firms ready, willing and able} - 2328}$$

2. The demonstrable evidence used to derive the numerator (number of ready, willing and able DBE firms) was:

- ☒ DBE firms listed in the Wisconsin UCP DBE Directory
- ☒ DBE firms registered in our Civil Rights Tracking System data base certified to perform relevant work
- ☒ DBE consulting firms on the WisDOT Roster of Eligible Engineering Consultants
- ☒ DBE consulting firms that received work primes or subcontractors

3. The demonstrable evidence used to derive the denominator (number for all ready, willing, and able firms) was:

- ☒ Aforementioned number of ready, willing and able DBE firms
- ☒ Current, non-DBE construction firms on the WisDOT All Construction Contractors List
- ☒ Non-DBE consulting firms on the WisDOT Roster of Eligible Engineering Consultants
- ☒ Non-roster, non-DBE consulting firms who received work as primes or subcontractors
- ☒ Non-DBE firms registered in our Civil Rights Tracking System.

4. Dividing the numerator by the denominator gives us the base figure, a calculation of the headcount of ready, willing, and able firms participating on WisDOT projects. The 13.10% represents the Step 1 calculation of the methodology used to ascertain the overall DBE goal.

Section 26.45(d): Step 2 Adjustment

After calculating a base figure of the relative availability of DBE firms, evidence was examined to determine what adjustment to the base figure, if any, were appropriate in order to arrive at the overall goal. Adjustments (to the base figure) are to account for the continuing effects of past discrimination [49 CFR §26.45(d) (3)]. To narrowly tailor the goal, WisDOT sought input and consensus from prime contractors, minority contractors and their respective organizations through our Transportation Advisory Committees for Construction and Consulting to ascertain whether we could quantify the ‘continuing effects of past discrimination.’

Stakeholders acknowledged that discrimination continues in institutions critical to business success including financing and bonding; but noted the challenge in quantifying those effects to fulfill the requirements of 49CFR Part 26.45d. Instead we opted for a value discussion around the expectations for opportunity statewide. Our discussion led to a qualitative judgment that, but for the continuing effects of discrimination, the availability of minorities and women to participate on WisDOT’s contracts would be considerably higher than in a race-neutral, non-discriminatory market.

IAW Section 26.45(d)(1) Discussion included, but was not limited to, the current capacity of DBE firms to perform work in the WisDOT-assisted contracting program; contracting trends and patterns evidenced in Milwaukee County, the success level of our first mega project—the Marquette Interchange Project, the findings of our Marquette Interchange Project Survey, and the rare opportunity presented by having two mega projects concurrently from 2008 - 2012. After discussion, we determined that there was insufficient basis to make a step 2 adjustment.

Using an analysis of the type of work, location of work, existing pool of DBE firms and their expertise, developed an estimated percentage for statewide and the two individual mega projects. The estimated percentages for US41 and I-94 are not misconstrued as actual goals, but intended to make room for goals up to those amounts.

We outlined the value of maintaining a statewide goal consistent with the national average of 10%, recognized that we accomplished the goals set on the Marquette Interchange which is the same area as our second mega project, I94 North South Corridor; and credited the impact of the Department’s outreach efforts related to environmental justice and economic development as well as the unknown capacity and measure of willingness to travel of DBE firms.

Section 26.45(g): Public Participation

1. As required by Section 26.45(g) WisDOT utilized a collaborative approach for setting our Federal Fiscal Year 2008 goal. The approach utilized two phases. First was an extensive analysis and discussion of the goal by the Transportation Advisory Committee (TRANS-AC). The second phase was the publication of the recommended goal.

2. TRANS-AC is a permanent standing committee that advises and makes recommendations to WisDOT on DBE related matters. This includes overall annual goals, program revisions, good faith waivers, and other issues of concern to DBE firms and the industry. Through multiple meetings TRANS-AC reviewed the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE firms, and WisDOT's efforts to establish a level playing field for the participation of DBE firms. Then TRANS-AC developed and recommended the Fiscal Year 2009 DBE highway goal. The following groups and interests were represented through membership on TRANS-AC:

- a) Wisconsin Transportation Builders Association (WTBA), comprised mainly of majority owned contractors.
- b) National Association of Minority Contractors (NAMC-WIS), comprised of minority owned contractors.
- c) Individual prime contractors and individual DBE firms, including minority business enterprises, women business enterprises, and specialty contractors.
- d) WisDOT DBE program personnel and highway construction personnel.
- e) FHWA, Wisconsin Division, Civil Rights Program Manager.

3. The final goal recommended by TRANS-AC was accepted by WisDOT for publication and public comment. The highway, transit, and aviation goals for published in print (Appendix A) and on the WisDOT website (Appendix B). The goal was published in the following print publications:

- A. The Milwaukee Community Journal
- B. The Milwaukee Courier
- C. Wisconsin State Journal
- D. News from Indian Country
- E. Voz Latina
- F. Hispanic Business Journal

No comments were received.

Section 26.51(c): Breakout of Race-Neutral and Race-Conscious Participation

1. In accordance with Section 26.51(a) WisDOT will meet the maximum feasible portion of our overall goal by using race-neutral means of facilitating DBE participation. Consistent with Section 26.51 WisDOT uses the following means to increase DBE participation:

- a) Unbundling large contracts into smaller stand-alone contracts that are more accessible to small businesses.
- b) Providing one-on-one, small group, and classroom training to DBE firms to overcome limitations to bidding as a prime, to include obtaining bonding and financing.
- c) Providing technical assistance to DBE firms on the bidding process, along with other technical assistance and services. WisDOT implemented a “Construction College” program to better train and provide information about how to do business with WisDOT and how to better submit competitive bids and quotes.
- d) Conducting outreach and informational sessions to the stakeholders and the general public to promote internal accountability, encourage external participation and to highlight specific contracting opportunities.
- e) Implementing a supportive services program to develop and improve immediate and long-term business management, and financial and accounting capability for DBE’s.
- f) Incorporating *Bulls-eye marketing* strategy that matches DBE firm expertise to work areas for potential contracting and project opportunities; then facilitates networking and communication between primes and subcontractors earlier and more effectively.
- g) Initiating a small business program effort as a Special contract provision that identified traditional subcontracted work and required it to be subbed out.
- h) Implementing a *Mentoring Connections* program that matches firms that prime consultant and contractors who are willing to mentor with deserving DBE firms for 6-months to encourage a formal agreement.
- i) Encouraging formal mentor protégé and joint venture agreements through brochures, community information sessions, pre-bid meetings, pre-construction meetings.

2. WisDOT's intends to meet our overall Federal Fiscal Year 2009 highway goal of 11.68%, we will obtain 8.72% through race-conscious means and 2.97% using race-neutral means. Taking into consideration our expected overall federal-aid highway program of \$575.350,000 this 2.97% race-neutral component will represent \$17,070,000 in race-neutral participation.

3. This estimate was determined after extensive review of the industry and market; DBE capacity; WisDOT Federal-aid construction and consulting program; and the WisDOT DBE/SS program. It is recognized that this 2.97% race-neutral estimate is greater than the historical race-neutral achievement (2.91% over the period from FFY2003 – FFY 2008). However, based on the proposed activities of the Education Subcommittee of TRANSAC, Marquette Interchange Reconstruction Project Best Practices, feedback from USDOT on implementation of race neutral measures, DBE Support Service consultant contracts, and industry support, WisDOT believes that a 2.97% race-neutral achievement is realistic and therefore it will serve as the starting objective.

4. In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, and if as expected we use contract goals, we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation IAW Section 26.51(f) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

5. WisDOT will maintain data separately on DBE achievements in those Federal-aid contracts with and without contract goals, respectively.

Appendix A – Print Publication Notice

Proposed DBE plan and goals -- public notice for Federal Fiscal Year (FFY) 2008

The Wisconsin Department of Transportation (WisDOT) has drafted for public comment its set of proposed Disadvantaged Business Enterprise (DBE) goals for Federal Fiscal Year (FFY) 2008. The program goals for DBE participation cover three modal administrations: Highways, transit, and airports. The three modal DBE goals contain component goals, as well as how the goals will be met by race-conscious means (assigned goal) and/or by race-neutral means (voluntary efforts). The detailed goal information, breakdowns and rationale are available for inspection and upon request; see contact below. The proposed FFY 2008 Goals are as follows:

- The overall goal for Highways (Federal Highway Administration-FHWA Funds) is **11.68%**
- The overall goal for Non Urbanized System Operators (Federal Transit Administration-FTA Funds) is **9.6%**.
- The overall goal for Block Grant Airports (Federal Aviation Administration-FAA Funds) is **11.3%**.

The goals and a description of how they were determined are available for inspection during normal business hours at:

Wisconsin Department of Transportation
Bureau of Equity and Environmental Services
4802 Sheboygan Avenue, Room 451
Madison, WI 53707-7965
Phone: (608) 266-6961

The information will be available for public review for thirty days from the date of this notice. WisDOT will accept written comments on the proposed goals for 45 days from the date of this notice at the above address. On or about August 1st, 2008 the entire final WisDOT DBE Goal Plan will be available on this Web site and will be submitted to the appropriate federal agencies.

Comments about the Plan or Goals can be sent to Rosie Smith (rosie.smith@dot.state.wi.us).

<http://www.dot.wisconsin.gov/business/engrserv/dbe-plans.htm>